Calendar No. 370

100TH CONGRESS
1st Session

SENATE

REPORT
100-194

BATTLE MOUNTAIN PASTURE RESTORATION ACT OF 1987

OCTOBER 7 (legislative day, SEPTEMBER 25), 1987.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 574]

The Committee on Energy and Natural Resources to which was referred the bill (S. 574) entitled the "Battle Mountain Pasture Restoration Act of 1987, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

The purpose of S. 574 is to direct the Secretary of the Interior to convey, without consideration, approximately 30,000 acres of land located in Lander County, Nevada to the Pershing County Water Conservation District.

BACKGROUND AND NEED

The lands in question were acquired by the Bureau of Reclamation in 1915-16 in connection with the Humboldt Project at a purchase price of $214,500. The cost of the purchase was included in a project cost and has subsequently been repaid to the Treasury by the project water users. The land is currently being used as a community pasture under a lease from the Bureau of Reclamation to the Pershing County Water Conservation District. Although the lands are not necessary to the operation of the Humboldt Project, they are of vital interest to the agricultural community.

The original purpose of the acquisition of the land by the United States was to acquire the accompanying water rights and to convey those rights to the storage behind Rye Patch Dam. Since those water rights have now been severed, there is no longer any need for the United States to retain title to the property; however, no authority exists for the United States to assure the conveyance of

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this property to the District. The water rights for the Battle Mountain Pasture lands are now secure within the rights stored and diverted by the Rye Patch Dam for the Humboldt Project, and in no way are currently connected with the lands covered in the proposed bill.

Customarily, when retention of Federal property is found to be no longer necessary for project purposes, it is declared "surplus" and is made available for use by other Federal agencies, or failing other Federal interest, the property is then disposed of by the General Services Administration. Area residents are concerned that they could lose access to the lands if they were disposed of through the usual GSA process. This would be a hardship to the local agricultural community. In addition, Lander County has been ordered by the Nevada State Department of Environmental Protection to repair and enlarge sewage treatment facilities servicing the adjacent community of Battle Mountain. The county plans to locate lagoons covering approximately 350 acres on a portion of the lands conveyed.

LEGISLATIVE HISTORY

S. 574 was introduced by Senator Hecht on February 19, 1987. A hearing was held by the Subcommittee on Public Lands, National Parks and Forests on July 30, 1987, S. 574 is very similar to a measure, S. 1772, which was reported by the Committee in the 99th Congress. No further action was taken on that measure.

At a business meeting on September 23, 1987, the Senate Committee on Energy and Natural Resources ordered S. 574 favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on September 23, 1987, by a majority vote of a quorum present, recommends that the Senate pass S. 574, as described herein.

The rollcall vote on reporting the measure was 14 yeas, 4 nays as follows:

YEAS	NAYS
Mr. Johnston	Mr. Metzenbaum*
Mr. Bumpers	Mr. Bradley*
Mr. Ford	Mr. Wirth
Mr. Conrad*	Mr. Fowler
Mr. McClure	
Mr. Hatfield*	
Mr. Weicker*	
Mr. Domenici	
Mr. Wallop	
Mr. Murkowski	
Mr. Nickles	
Mr. Hecht	
Mr. Evans	

*Indicates voted by proxy.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 2, 1987.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 574, the Battle Mountain Pasture Restoration Act of 1987, as ordered reported by the Senate Committee on Energy and Natural Resources on September 23, 1987.

S. 574 would require the Secretary of the Interior to convey property currently managed by the Bureau of Reclamation to the Pershing County Water Conservation District. The land would be conveyed without monetary consideration except for payment of administrative costs incurred in making the transfer, not to exceed $20,000. All existing rights and interests of third parties upon, in and over the property would be retained.

Based on information obtained from the Bureau of Reclamation, we estimate that enactment of this bill would result in no cost to the federal government.

Assuming that the bill is enacted in fiscal year 1988, we estimate that the Pershing County Water Conservation District would incur a cost of approximately $10,000 in 1988 for administrative costs associated with the land conveyance. Enactment of this bill would otherwise result in no cost to state and local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes.

Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 574. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 574, as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to S. 574 is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, July 17, 1987.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for our views on S. 574, the "Battle Mountain Pasture Restoration Act."

We support enactment of this bill by the Congress.

S. 574 would transfer title to approximately 30,000 acres of land acquired by the Bureau of Reclamation (Reclamation) for the Humboldt Project, Nevada, to the Pershing County Water Conservation District (District), a quasi-political subdivision of the State of Nevada, and the entity responsible for repaying the appropriate costs of the Humboldt Reclamation Project. The title conveyance would be subject to all existing rights and would require the District to reimburse the United States for the administrative costs associated with the conveyance, not to exceed $20,000. Our best current estimate of these administrative costs associated with this transfer is approximately $10,000.

This legislation would assure the beneficiaries of the Humboldt Project (i.e., the members of the Pershing County Water Conservation District) adequate summer pasture to continue their existing livestock operations. The original cost of purchase of the Battle Mountain Pasture lands, the former Adolous-Flippinni Ranches, has been repaid by the project beneficiaries, and as of September 1985, all but approximately $200,000 of subsequent loans made against the project have been repaid.

The original purpose of the acquisition of the land by the United States was to acquire the accompanying water rights and to convey those rights to the storage behind Rye Patch Dam. Since those water rights have now been severed, there is no longer any need for the United States to retain title to the property; however, no authority exists for the United States to assure the conveyance of this property to the District. The water rights for the Battle Mountain Pasture lands are now secure within the rights stored and diverted by the Rye Patch Dam for the Humboldt Project, and in no way are currently connected with the lands covered in the proposed bill.

The main purpose of this proposed legislation is to protect the farmers and ranchers making up the District's membership, from having title over the pasture lands pass out of Federal ownership into the hands of those who might manage the land in a manner detrimental to the District's members. Since this pasture land is technically surplus to Federal needs, without legislative protection, this could easily happen.

The Department has previously commented in support of similar legislation.

Our only concerns with S. 574 are:

We have not yet had sufficient time to review the legal descriptions provided in the bill to ensure they are precise and accurate for the property in question.

It is not clear from the bill whether the exceptions described by metes and bounds in section 4 are fee simple holdings in every case, or easements in some cases. If any of the excluded lands are easements, they would be considered valid existing rights and need not be described in the bill.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

WAYNE N. MARCHANT,
Deputy Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 574, as reported.

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100TH CONGRESS
1st Session

SENATE

REPORT
100-195

CONVEYING PUBLIC LAND TO THE CATHOLIC DIOCESE OF RENO/LAS VEGAS, NV

OCTOBER 7 (legislative day, SEPTEMBER 25), 1987.—Ordered to be printed

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Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 575]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 575) to convey public land to the Catholic Diocese of Reno/Las Vegas, Nevada, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended do pass.

The amendments are as follows:

1. On page 1, line 5, strike "Dawson" and insert "Lawton".
2. On page 2, beginning with line 11, strike all of section 2 and insert:

> "SEC. 2. CONVEYANCE.—Subject to valid existing rights and notwithstanding any other provision of law, the Secretary of the Interior shall convey without consideration to the Catholic Diocese of Reno/Las Vegas, Nevada, the lands described as follows: one 40-acre parcel comprising the northwest one-quarter of southwest one-quarter of section 13 township 19 south range 61 east Mount Diablo base line and Meridian, subject to the limitations of section 3 of this Act: *Provided*, That the administrative costs of such conveyance be borne by the Catholic Diocese of Reno/Las Vegas, Nevada.".

PURPOSE OF THE MEASURE

The purpose of S. 575 is to convey, without consideration, 40 acres of public land in Nevada to the Catholic Diocese of Reno/Las Vegas.

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BACKGROUND AND NEED

In 1949, Marie Lawton, purchased 40 acres of land from Clark County, Nevada at a tax sale. Taxes were paid on the property by Ms. Lawton until her death in 1975. At the time of her death, she bequeathed the property to the Roman Catholic Diocese of Reno/Las Vegas to be used to benefit the Home of the Good Shepherd which works with troubled young women.

It was subsequently discovered that the county erred in conveying the property since the lands were public lands owned by the United States and managed by the Bureau of Land Management. The Diocese filed an application with the BLM for the lands under the Color of Title Act. That application was denied because the claimant did not meet the requirements of the law. That is, no valuable improvements had been placed on the lands nor had there been any cultivation of the lands as required by the Color of Title Act.

Since the Diocese desires to sell the property and use the proceeds for the Home of the Good Sheperd, there is no existing authority under which the BLM can convey the property without consideration. For example, if the Diocese was to use the project for public purposes, it could be conveyed without consideration pursuant to the Recreation and Public Purposes Act.

In view of this situation, the Committee agreed to report S. 575 which conveys this property, subject to valid existing rights, without consideration. The Diocese is required to pay any administrative costs associated with this conveyance.

LEGISLATIVE HISTORY

S. 575 was introduced on February 19, 1987. A hearing before the Public Lands, National Parks and Forests Subcommittee was conducted on April 30. A similar measure (S. 2194) was introduced in the 99th Congress and hearings held. No further action was taken.

At a business meeting on September 23, 1987, the Senate Committee on Energy and Natural Resources ordered S. 575, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on September 23, 1987, by a vote of a quorum present recommends that the Senate pass S. 575 if amended, as described herein.

The rollcall vote on reporting the measure was 15 yeas, 2 nays as follows:

YEAS	NAYS
Mr. Johnston	Mr. Metzenbaum*
Mr. Bumpers*	Mr. Wirth
Mr. Ford	
Mr. Bradley*	
Mr. Fowler	
Mr. Conrad*	
Mr. McClure	
Mr. Hatfield*	

Mr. Weicker*
Mr. Domenici
Mr. Wallop
Mr. Murkowski
Mr. Nickles
Mr. Hecht
Mr. Evans

*Indicates voted by proxy.

COMMITTEE AMENDMENTS

During the consideration of S. 575, the Committee adopted two technical and clarifying amendments. The first corrects a typographical error in the spelling of Ms. Lawton's name. The second amendment clarifies that the conveyance is subject to valid existing rights and that administrative costs associated with the conveyance are to be borne by the Diocese.

COST AND BUDGETARY CONSIDERATION

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC., October 6, 1987.

Hon. J. BENNETT JOHNSTON, JR.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 575, a bill to convey public land to the Catholic Diocese of Reno/Las Vegas, Nevada, as ordered reported by the Senate Committee on Energy and Natural Resources, September 23, 1987.

This bill authorizes the Secretary of the Interior to transfer approximately 40 acres of land in Nevada to the Catholic Dioceses of Reno/Las Vegas, Nevada. The Diocese would be required to reimburse the federal government for the administrative costs of the conveyance. Information from the Department of the Interior indicates that, based on comparable real estate transactions in the area, the value of the land being conveyed is approximately $160,000. Enactment of this bill would not affect the budget of the federal government, or of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 575. The bill is not a regulatory measure in the sense of

imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 575, as reported.

EXECUTIVE COMMUNICATIONS

On September 22, 1987, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on S. 575. These reports had not been received at the time the report on S. 575 was filed. When the reports become available, the chairman will request that they be printed in the Congressional Record for the advice of the Senate.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 575, as reported.

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